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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,782	07/31/2001	Richard Arthur Bickers	30970032-1	1444

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ALEXANDRIA, VA 22314

EXAMINER
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HOMERE, JEAN RAYMOND

ART UNIT	PAPER NUMBER
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2177

DATE MAILED: 06/01/2004

11

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/917,782

Applicant(s)

BICKERS ET AL.

Examiner

Jean R. Homere

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-6,8-13 and 16-44 is/are pending in the application.
- 4a) Of the above claim(s) 21-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,8-13 and 16-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 03/22/04 complies with the provisions of 37 CFR 1.97. Accordingly, the examiner has considered IDS.

### **Drawings**

2. The drawings were received on 03/22/04. These drawings are approved.

### ***Specification***

3. The substitute specification filed 03/22/04 has been entered.

### ***Election/Restrictions***

4. Newly submitted claims 21-44 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

5. Original claims 1-15 and amended claims 1, 3-6, 8-13, 16-18 are directed to a method and system of a centralized data position information storage, whereas newly submitted claims 21-44 are directed to a method and system for enabling a tape to be driven from an initial position to a desired position in response to a request.

Because these inventions are distinct for the reasons given above and the search required for the original claims 1, 3-6, 8-13, 16-18 is not required for claims 21-44, restriction for examination purposes as indicated is proper.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 21-44 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 3-6, 8-13, 16-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Shaath et al., (Shaath), US Patent No. 6,546,384.

As to claim 1, Shaath discloses a method for randomly accessing sequential data stored on a tape storage medium (col. 1, lines 11-14 et seq.) In particular, Shaath discloses the arrangement of a byte stream of data into a partitioned logical data (see fig. 3e-3h). Shaath also teaches the storage of index information to thereby indicate the position of information relating to the logical data in a reserve storage area located on the tape (col. 5, line 66- col. 6, line 4 et seq.) Further, Shaath teaches the transfer of index information from the reserve storage area on the tape to the centralized area of the tape where the partitioned logical data is stored to thereby locate a target data upon request (col. 6, lines 35-50 et seq.) Additionally, Shaath teaches a the

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application of a search algorithm to the data position information to locate a target data (col. 6, lines 21-24 et seq.)

As to claim 3, Shaath teaches that the logical data includes records and filemarks indicating the position of the data stored on the tape (col. 6, lines 35-50 et seq.)

As to claims 4, 8, Shaath teaches that the centralized storage area is configured to store logical data position information relating to a plurality of selected logical groups (see figures 3a-3h et seq.)

As to claims 5 and 10, Shaath teaches the limitations as discussed in the rejection of claim 1 above. Further, Shaath teaches a read head for reading the data (fig. 9, item 220 et seq.)

As to claim 6, Shaath teaches a data storage configuration to minimize the time period for retrieving target data (col. 5, lines 7-17 et seq.)

As to claims 9 and 16-17, Shaath teaches the transfer of index information from the reserve storage area on the tape to the centralized area of the tape where the partitioned logical data is stored to thereby locate a target data upon request (col. 6, lines 35-50 et seq.)

As to claims 18-19, Shaath teaches a plurality of parallel tracks that are accessible by the reader (col.

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8. The limitations of claims 11-13 and 20 have already been discussed in the rejection of claims 1, 3-6, 8-9 above. They are therefore rejected on the same grounds.

### **Remarks**

Applicant has incorporated the search algorithm requirement of claims 2, 7 and 10 into independent claims 1, 5, and 10 respectively. Particularly, Applicant alleges that the limitation of applying a search algorithm to data position information in a centralized storage area to locate target data is not taught by the Shaath reference in column 6, lines 21-24, as suggested in the office action. In response, the Examiner kindly submits that the broadly claimed limitation of applying a search algorithm to data position information to locate a target file on a tape reads on Shaath's teaching of the search of an index on a tape to determine the location of a desired file. Particularly, the claimed application of a search algorithm can be construed as the use of any search scheme including the search of an index containing data indicative of the position of files, as disclosed by Shaath. Further, by teaching the retrieval of a desired piece of position data from the index of position files, Shaath implicitly teaches the claimed step of locating the target data. Consequently, Shaath does anticipate independent claims 1, 5 and 10, as amended. Accordingly, the 35 USC 102 rejection is hereby sustained.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean R. Homer whose telephone number is (703)-308-6647.

The examiner can normally be reached on Monday-Friday from 09:30 a.m.-6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breen, can be reached on Monday-Friday from 8:00 a.m. to 3:30 p.m. at (703)-305-9790.

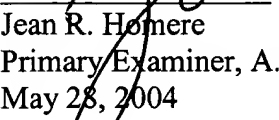
**Any response to this action should be mailed to:** Commissioner of Patents and Trademarks  
Washington, D.C. 20231, **or faxed to:** (703) 872-9306. Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist.)

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.



Jean R. Homere  
Primary Examiner, A.U. 2177  
May 28, 2004